IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.07.2006

Coram

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.462 of 2006

Mrs.Rani ... Petitioner

-Vs-

1. The State of Tamil Nadu
   rep.by its Secretary to Government
   Prohibition and Excise XII Dept.,
   Fort St.George
   Chennai 600 009

2. The District Magistrate and
   District Collector
   Thiruvannamalai District
   Thiruvannamalai ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the body of the detenu Gileybe @ Elanchezhiyan who is detained in the Central Prison, Vellore before this Hon'ble Court and pass an order to call for the records of detention order imposed on the petitioner in the detention order D.O.No.20/2006-C2 dated 03.04.2006 passed by the second respondent and set aside the same and set the detenu at liberty.

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For Petitioner : Ms.L.Poompavai
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention, dated 3.4.2006, detaining her brother by name Gileybe @ Elanchezhiyan as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was a delay in disposal of the representation dated 11.4.2006. The particulars furnished by the learned Additional Public Prosecutor show that the representation was received by the Government on 26.4.2006. Remarks were called for on 27.4.2006 and the remarks were received on 9.5.2006. Thereafter, the file was dealt with by the Under Secretary and Deputy Secretary on 10.5.2006 and finally the Minister for Prohibition & Excise passed an order on 23.5.2006. The rejection letter was prepared on 23.5.2006, which was sent to the detenu on 24.5.2006 and served to the detenu on 25.5.2006. Learned counsel for the petitioner rightly pointed out that though the file was processed by the Deputy Secretary on 10.5.2006, the competent authority namely, the Minister for Prohibition & Excise passed an order only on 23.5.2006. In the absence of proper explanation by the person concerned, we hold that the time delay between 10.5.2006 and 23.5.2006 is on the higher side, which has prejudiced the detenu in considering his representation. On this ground, the impugned order of detention is liable to be quashed.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

ss

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, Prohibition and Excise
   XII Department, Fort St. George, Chennai 600 009.

2. The District Magistrate & District Collector,
   Thiruvannamalai District
   Thiruvannamalai.

3. The Superintendent, Central Prison, Vellore
   (In duplicate for communication to the detenu)

4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.462 of 2006

JE(CO)
RVL 24.07.2006

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